

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

WILLIAM C. GRIM

§

VS.

§

CIVIL ACTION NO. 1:12cv283

DAVID G. PILLE

§

ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff William C. Grim, an inmate confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed the above-styled civil rights lawsuit against David G. Pille. The court previously referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to 28 U.S.C. § 636 and applicable orders of this Court.

Plaintiff has filed a motion seeking a preliminary injunction. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this motion. The Magistrate Judge recommends the motion be denied.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Plaintiff filed objections to the Report and Recommendation. The court must therefore conduct a *de novo* review of the objections.

Plaintiff complains in his motion that since he filed this lawsuit, the defendant has confiscated certain items of property and written false disciplinary cases against him. The Magistrate Judge concluded plaintiff was not entitled to preliminary injunctive relief because he had not demonstrated he faced a substantial threat of irreparable harm if relief was not granted. This conclusion was based on plaintiff's statement that the defendant had retired from prison employment.

The court agrees that plaintiff is not entitled to preliminary injunctive relief. As the defendant is no longer employed at plaintiff's prison unit, he no longer poses a threat to plaintiff. If plaintiff believes the actions complained of in his motion violated his constitutional rights, he is free to file a separate lawsuit about such actions. However, as the Magistrate Judge stated, even if

it could be concluded that at one time plaintiff was subject to a substantial threat of irreparable harm, the threat no longer exists.¹

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED** as the opinion of the court. Plaintiff's motion for preliminary injunction is **DENIED**.

So **ORDERED** and **SIGNED** this **11** day of **September, 2014**.



Ron Clark, United States District Judge

¹ Plaintiff also complains that the Magistrate Judge was not authorized to submit a Report and Recommendation concerning a motion for preliminary injunctive relief. However, while 28 U.S.C. § 636(b)(1)(A) does not permit a Magistrate Judge to make a final determination concerning a motion for injunctive relief, Section 636(b)(1)(B) authorizes a Magistrate Judge to make a recommendation to the district court as to whether such a motion should be granted or denied. Finally, plaintiff complains that he only received the first three pages of the Magistrate Judge's four page Report and Recommendation. However, the fourth page of the Report and Recommendation only contains a continuation of a warning that failure to file objections would result in the waiver of the right to review of the Magistrate Judge's recommendation. As plaintiff filed objections, he has suffered no prejudice as a result of not receiving the fourth page of the Report and Recommendation.